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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,761	03/26/2001	Franz Laermer	10191/1629	5642

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EXAMINER

CHEN, KIN CHAN

ART UNIT	PAPER NUMBER
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1765

DATE MAILED: 04/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/720,761

Applicant(s)

LAERMER ET AL.

Examiner

Kin-Chan Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on February 11, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____

- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 19-22 and 24-27 are rejected under 35 U.S.C. 103(a) as obvious over Flamm et al (Journal of the Electrochemical Society, Dec. 1982, USA Bd 129, Nr.12, Page 2755-2760).

Flamm teaches a method of anisotropic plasma etching a laterally defined structure in a silicon substrate using a process gas. Flamm teaches adding a fluorine-delivering etching gas to the process gas. The fluorine-delivering etching gas may include NF_3 , ClF_3 or BrF_3 (page 2756, col. 1, full paragraph 3). Flamm also teaches that plasma in a wide range of gas mixtures including CF_4 , CF_4/O_2 and $\text{C}_2\text{F}_6/\text{O}_2$ (instant claims 20, 21, 22, 26, and 27) can be used to supply fluorine atoms for selective isotropic silicon etching. The said gas mixtures can deposit polymer (so-called precipitating at least one passivating material in the instant claims), see page 2755, col. 1 and 2). Because it is known that gas comprising CF_4 or C_2F_6 can supply fluorine atoms for selective isotropic silicon etching and deposit polymer and because it is disclosed by Flamm, hence, it would have been obvious to one with ordinary skill in the

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art to incorporate gas mixtures including CF_4 / O_2 and $\text{C}_2\text{F}_6 / \text{O}_2$ in the method of etching silicon using the fluorine-delivering etching gas including NF_3 , ClF_3 or BrF_3 (instant claims 19, 24, 25) and use them in any combinations thereof in order to provide their art recognized advantages and produce an expected result since they have been taught to be useful for the same purpose (etching silicon substrate), see case law cited below.

Also see Singh et al. (US 6,187,666) in the record as evidence for the prior "known" statement of depositing polymer as a protective layer (passivating material).

Furthermore, Flamm teaches using C_2F_6 in anisotropic etching of silicon as stated above, because same material is used in the same process as claimed, therefore it would inherently contain same property such as a passivating material.

" It is prima facie obvious to use two compositions (two methods) each of which is taught by the prior art to be useful for the same purpose. " In re Kerkhoven 205 USPQ 1069 (CCPA 1980). In re Susi 169 USPQ 423, 426 (CCPA 1971). See also Ex parte Quadranti 25 USPQ 2d 1071 (BPAI 1992).

3. Claims 23 and 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flamm et al. as applied to claims 19-22 and 24-27 above, and further in view of Charlet et al. (US 5,047,115).

Flamm teaches a method of anisotropic plasma etching a laterally defined structure in as silicon substrate using a process gas. Flamm teaches adding a fluorine-delivering etching gas to the process gas. The fluorine-delivering etching gas may include NF_3 , ClF_3 or BrF_3 (page 2756, col. 1, full paragraph 3). Flamm also teaches that

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plasma in a wide range of gas mixtures including CF_4 , CF_4/O_2 and $\text{C}_2\text{F}_6/\text{O}_2$ can be used to supply fluorine atoms for selective isotropic silicon etching. The said gas mixtures can deposit polymer (so-called precipitating at least one passivating material in the instant claims 29, 31, 33, 34), see page 2755, col. 1 and 2. Because it is known that gas comprising CF_4 or C_2F_6 can supply fluorine atoms for selective isotropic silicon etching and deposit polymer and because it is disclosed by Flamm, hence, it would have been obvious to one with ordinary skill in the art to add gas mixtures including CF_4/O_2 and $\text{C}_2\text{F}_6/\text{O}_2$ (instant claims 30, 31, 32, 33, 35, 36) in the method of etching silicon using the fluorine-delivering etching gas including NF_3 , ClF_3 or BrF_3 (instant claims 25, 30, 34) in order to provide their art recognized advantages and produce an expected result. See Singh et al. (US 6,187,666) in the record as evidence for the prior "known" statement of depositing polymer as a protective layer (passivating material).

Furthermore, Flamm teaches using C_2F_6 in anisotropic etching of silicon, because same material is used in the same process as claimed, therefore it would inherently contain same property such as a passivating material.

Unlike the claimed invention, Flamm does not disclose that He or Ne may be used in the process of etching silicon substrate. In the method of etching silicon substrate, Charlet teaches that helium or argon (instant claims 23, 28, 29, 34) may be used in the process of etching silicon substrate so as to ensure the stability of the discharge and its extension to the substrate (col. 2, lines 65-68). Hence, it would have been obvious to one with ordinary skill in the art to incorporate helium or argon as

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taught by Charlet in order to ensure the stability of the discharge and its extension to the substrate.

Response to Arguments

4. Applicant has argued that Flamm et al do not show polymer that have any passivating properties at all. It is not persuasive. As stated in the office action, Singh et al. (US 6,187,666) in the record as evidence for the prior "known" statement of depositing polymer as a protective layer (passivating material). Furthermore, Flamm teaches using C_2F_6 in anisotropic etching of silicon, because same material is used in the same process as claimed, therefore it would inherently contain same property such as passivating.

Applicant has argued that there is no motivation to combine the prior art. It is not persuasive. As stated in the office action, they have been taught to be useful for the same purpose (etching silicon substrate), see the case law cited above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Singh et al. (US 6,187,666) teaches depositing polymer that forms a protective layer (passivating material), see abstract and col. Lines 12-15 and 20-21.

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kin-Chan Chen whose telephone number is (703) 305-0222. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Utech can be reached on (703) 308-3836. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2934.

April 7, 2003

K. C. Chen.
Patent Examiner
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